

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

Hobby Distillers Association, Rick Morris,  
Thomas O. Cowdrey III, Scott McNutt,  
John Prince III

Plaintiffs,

v.

Alcohol and Tobacco Tax and Trade  
Bureau, a bureau of the U.S. Department  
of the Treasury; Department of Justice

Defendants.

Case No. 4:23-cv-1221-P

**Plaintiffs' Response to Court Order of March 28, 2024**

On March 28, 2024, this Court ordered the parties to file written objections, if any, to its proposal to advance this case to a determination on the merits. Plaintiffs have no objection to this Court's proposal. However, Plaintiffs would like to briefly highlight a few respects in which a preliminary injunction in this case would be relevantly different from a decision on the merits.

At oral argument, Plaintiffs conceded that it might be appropriate to limit the application of a preliminary injunction to current members of the Hobby Distillers Association. With respect to a permanent injunction, our view is different. In Plaintiffs' opinion, the scope of a permanent injunction in this case would ideally be similar to the one described in Judge O'Connor's decision in *Franciscan All., Inc. v. Becerra*, No. 7:16-CV-00108-O, 2021 WL 6774686 (N.D. Tex. Oct. 1, 2021), *aff'd in part*, 47 F.4th 368, 379 (5th Cir. 2022): namely, the scope would

include future members, but that the government would “not violate this order . . . against Plaintiffs, their current or future members . . . if the agency officials directly responsible for taking these actions are unaware that an entity is a member of one of the Plaintiffs.” In the view of Plaintiffs, following the *Franciscan Alliance* model would likely eliminate some hypothetical difficulties of application discussed briefly at oral argument.

Dated: April 4, 2024

Respectfully submitted.

/s/ Devin Watkins

Devin Watkins (D.C. Bar # 155179)  
Dan Greenberg (D.C. Bar # 9008067)  
COMPETITIVE ENTERPRISE INSTITUTE  
1310 L St. NW, 7th Floor  
Washington, D.C. 20005  
(202) 331-1010  
Devin.Watkins@cei.org  
Dan.Greenberg@cei.org

**GRIFFITH BARBEE PLLC**

Casey Griffith (Texas Bar No. 24036687)  
Casey.Griffith@griffithbarbee.com  
Nicholas Kliewer (Texas Bar No. 24083315)  
Nick.Kliewer@griffithbarbee.com  
One Arts Plaza  
1722 Routh St., Ste. 710  
Dallas, Texas 75201  
(214) 446-6020 | main  
(214) 446-6021 | fax

*Counsel for Plaintiffs*